

The Applicant would like to thank the Examiner for his helpful comments and suggestions made during the telephone conference of December 13, 1999. No firm agreement was reached with regard to overcoming the outstanding rejections. However, the Examiner did indicate that the patent to Francis Jr. *et al.*, the only reference cited in the outstanding prior art rejections, does not teach tongue and groove elements which are melted together.

Claims 12-15 and 5-9 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. In particular, the Office Action alleges that the phrase "at least one element of a tongue and groove...mates with the at least one element" is vague and indefinite because it includes a tongue-to-tongue or groove-to-groove arrangement which is not disclosed in the invention.

These rejections are no longer applicable to the claims as presently amended. In particular, claim 16 which replaces claim 12 recites: "a coextruded member having a flexible section of thermoplastic rubber and a substantially rigid section of thermoplastic, the flexible section including at least a first element of a tongue and groove arrangement, the substantially rigid section of thermoplastic including at least a second element of the tongue and groove arrangement which is complimentary to and mates with the first element".

Claims 13 and 14 have been amended to depend from and be consistent with new claim 16.

New claim 17, which replaces canceled claim 15, has been drafted with language similar

to that used in new claim 16.

Applicant therefore, respectfully urges the withdrawal of the rejections under 35 U.S.C. §112, second paragraph.

Claims 12, 13, 15, 5, 6 and 9 stand rejected under 35 U.S.C. §102 (b) as being clearly anticipated by Francis Jr. *et al.* '132 (Francis). Claims 14, 7 and 8 stand rejected under 35 U.S.C. §103 (a) as being unpatentable over Francis.

In response thereto, new claim 16 recites in pertinent part "the elements of the tongue and groove arrangement defining a bonded juncture having surfaces which are *melted together* during coextrusion of the flexible and substantially rigid sections."

Support for this feature can be found in the specification starting in the last paragraph on page 3 and continuing to the first partial paragraph of page 4. As stated therein, during coextrusion, the liquefied thermoplastic rubber of the flexible section and the liquefied plastic of the rigid section meet at a tongue and groove shaped juncture in the die (the portion of the die where the tongue and groove elements are formed). Because the two materials disposed in this juncture of the die are melted when they come together, cooling of the coextrusion causes these two melted materials to bond together thereby forming a tongue and groove structure having surfaces which are melted together.

Francis, on the other hand, teaches an integral brace and hinge member 20 comprising brace sections 21, 22 of unplasticized poly-vinyl chloride resins coupled by a flexible hinge section 23 of rubber-like composition. The brace and hinge sections in Francis are formed in two

separate and distinct extrusion processes. The brace sections are fabricated first by extruding a continuous length of brace which is cut into two lengths which form the brace sections. Then, the hinge section is extruded such that elongate edge bead portions 31, 32 of the hinge are formed in retaining slots 25 defined in the brace sections. Hence, the elongate edge bead portions and the retaining slots *are not melted together*. The edge bead portions of the hinge are merely retained in the retainer slots because of the narrow mouth of the slots. See column 4, lines 39-57.

Since Francis does not teach the extrusion of the presently claimed invention, withdrawal of the prior rejections is respectfully urged.

It is respectfully submitted that all outstanding issues have been addressed herein and that claims 5-9, 13, 14, 16, and 17 are in condition for allowance, early notification of which is earnestly solicited. Should there be any questions or other matters whose resolution may be advanced by a telephone call, the Examiner is cordially invited to contact Applicant's undersigned attorney at his number listed below.

FRAM TRAK-2

No fee is believed due as a result of this communication. The Commissioner, however, is hereby authorized to charge any other fees which may be required or credit any overpayment to Deposit Account No. 50-1057.

Respectfully submitted,



Paul A. Schwarz
Reg. No. 37,577

Paul A. Schwarz, Esq.
BUCHANAN INGERSOLL, P.C.
650 College Road, 4th Floor
Princeton, New Jersey 08540
(609) 987-6883
(609) 520-0360 - facsimile